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- (j) A provision stating the circumstances, if any, when assignment or subcontracting may be used.
  - (k) A provision requiring the contractor to establish a procedure to resolve client grievances.
  - (l) Clause(s) providing for bonding, insurance and indemnification, in accordance with the county's established standards.
- .4 When amendments appear necessary, the county shall observe the following criteria:
- .41 If a formally advertised contract is amended to increase services within its original term and the amendment will result in a cost increase in excess of ten percent of the contract maximum, the contract shall be rebid, or the price renegotiated to ensure an accurate reflection of fixed and variable costs. However, if renegotiated, the new unit price shall not exceed the unit price as originally determined through competitive selection.
  - .42 Any amendment negotiated without competitive bidding shall be negotiated on the basis of amounts reasonable and necessary as documented in writing and maintained in the county records.
  - .43 Amendments to contracts for In-Home Supportive Services shall be subject to the same approval requirements as the original contract. The requirements and conditions for approval are contained in Section 23-630.

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This section contains the requirements for procurement of services by formal advertising, as defined in Section 23-601.21, and specifies the information which shall be contained in an IFB, as defined in Section 23-601.22, or an RFP, as defined in Section 23-601.23.

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- (a) Except as provided in Section 23-650, Procurement by Negotiation, all procurements shall be made by formal advertising.
- (b) The IFB method of procurement must be used, unless the county documents that the RFP method of procurement is more advantageous, in terms of price and service delivery, before starting the procurement process.

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- (1) Request for proposal might be used for:
  - (A) Management studies.
  - (B) Demonstration Projects (Welfare and Institutions Code Sections 18200-18215) or other services which are new or experimental in nature.
  - (C) Procurement of professional services in law, medicine or other professions where fee for service is the primary method of payment.

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- (c) Counties shall obtain prior SDSS approval before using the RFP method for In-Home Supportive Service contracts. The request for using the RFP method shall be in writing and shall include the county's reasons for using the RFP method, and those evaluation factors, other than cost, responsiveness and responsibility which the county plans to use in evaluating contractors.
  - (1) SDSS will review the reasons and evaluation factors and determine the acceptability of using the RFP method in terms of cost impact, benefit to the program, both locally and statewide, and compliance with state and federal laws and regulations. SDSS will notify the county of its decision in writing. SDSS will notify the county within 15 days of receipt if the required information is complete or deficient and within 45 days, upon receipt of complete information, of its decision on using the RFP method.
  - (2) The state has not had any requests for using RFPs for In-Home Supportive Services contracts during the past two years. Records from previous requests are no longer available.

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(d) An IFB or RFP shall contain at a minimum the information enumerated below, if applicable to the procurement involved and any other information necessary for bid or proposal evaluation. IFBs or RFPs for In-Home Supportive Service contracts shall be submitted to SDSS for review and approval at least 90 days in advance of the proposed distribution date to potential vendors. SDSS will review the procurement document for compliance with applicable state and federal procurement law and regulations, and also those laws and regulations which pertain to the In-Home Supportive Services Program. SDSS will respond in writing, setting forth any changes necessary to bring the procurement document into compliance with the applicable laws and regulations. SDSS will notify the county within 30 calendar days of receipt if the procurement document is complete enough for review and within 60 calendar days, upon receipt of complete information, of its approval, or of any required changes.

- (1) County serial number of the IFB or RFP.
- (2) Name and address of purchasing agency.
- (3) Date of issuance.
- (4) Time and place for submission of bids or proposals, including disposition of late bids or proposals and potential reasons for rejecting all bids or proposals.
- (5) Time and place of bid or proposal opening.
- (6) Period of time for which bid or proposal is to remain in effect.
- (7) Information on any guarantee, performance or payment bond required by the county.
- (8) Bidder's certification that all statements in the bid or proposal are true. This shall constitute a warranty, the falsity of which shall entitle the county to pursue any remedy authorized by law, which shall include the right, at the option of the county, of declaring any contract made as a result thereof to be void.

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- (9) When needed for the purpose of bid or proposal evaluation, preaward surveys, or inspection, a requirement that bidders state the place(s), including the street address, from which the services will be furnished.
- (10) Description or specification of services to be furnished, or problem to be solved, in sufficient detail to permit full and free competition. The county shall obtain and distribute information from current contractors necessary for fair bidding by all potential vendors.
- (11) Quantity of services to be required. If the bidding document gives the county an option to increase or decrease quantities specified, a statement of the maximum percentage of such increase or decrease shall be included.
- (12) Any county requirement for the time, place or method of service delivery.
- (13) Citation of, and required bidder conformance to, all applicable provisions of law and regulations. These shall include but not be limited to the Social Security Act, the Civil Rights Act, the Clean Air Act, applicable federal regulations, State Energy Efficiency Plan, California Welfare and Institutions Code, and the State Department of Social Services Manual of Policies and Procedures.
- (14) Requirement for each bidder to submit a detailed budget and budget narrative wherein line items are identified as yearly or contract period costs, and where applicable, hourly or unit of service costs.
- (15) Requirement for bidders to submit a statement of experience which shall include but not be limited to the following information:
  - (A) Business name and legal business status (i.e., partnership, corporation, etc.) of the prospective contractor.
  - (B) Number of years the prospective contractor has been in business under the present business name, as well as related prior business names.
  - (C) Number of years of experience the prospective contractor has had in providing the required, equivalent or related services.

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- (D) Contracts completed during last five years showing year, type of services, dollar amount of services provided, location, and contracting agency.
- (E) Details of any failure or refusal to complete a contract.
- (F) Whether the bidder holds a controlling interest in any other organization, or is owned or controlled by any other person or organization. Governmental agencies are exempt from this requirement.
- (G) Financial interests in any other business. Individuals who are personally performing the contracted service and governmental agencies are exempt from this requirement.
- (H) Names of persons with whom the prospective contractor has been associated in business as partners or business associates in the last five years. Governmental agencies are exempt from this requirement.
- (I) Explanation of any litigation involving the prospective contractor or any principal officers thereof, in connection with any contract.
- (J) An explanation of experience in the service to be provided, or equivalent or similar experience of principal individuals of the prospective contractor's present organization.
- (K) A list of major equipment to be used for the direct provision of services.
- (L) An audited financial statement. Such statement shall be the most recent and complete audited financial statement available and for a fiscal period not more than 18 months old at time of submission. This statement shall be by an independent, certified public accountant. If the audit is of a parent firm, the parent firm shall be party to the contract. The county may require other information in lieu of the certified financial audit, if it is of equal value in determining the fiscal stability of the competing agency. Such other evidence shall be included in the bid document. Individuals who are personally performing the contracted services and governmental agencies are exempt from this requirement.

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- (M) Current financial statements, letters of credit, and guarantor letters from related entities, as required by the county.
  - (N) A list of commitments, and potential commitments which may impact assets, lines of credit, guarantor letters, or otherwise affect the bidder's ability to perform the contract.
  - (O) Business or professional licenses or certificates required by the nature of the contract work to be performed and held by the contractor.
  - (P) An agreement to provide the county with any other information the county determines is necessary for an accurate determination of the prospective contractor's qualifications to perform services.
  - (Q) Agreement to right of the county, state and federal governments to audit the prospective contractor's financial and other records.
- (16) Provision regarding the receipt of late bids as specified in Section 23-611.15.
  - (17) Description of the evaluation and selection process.
  - (18) Time and place for awarding of contract.
  - (19) Protest rights as specified in Section 23-624.
  - (20) Circumstances under which the IFB or RFP may be cancelled as provided in Section 23-614.
  - (21) A statement that funding for the contract shall be contingent upon the availability of state and/or federal funds as appropriate to the funding source.
  - (22) A statement noting the existence of any collective bargaining agreement between the current contractor and its workers which is currently in effect within the county.
- (e) All invitations for bids and requests for proposal shall allow sufficient time between the date of publication of the IFB or RFP and the submission date to permit prospective bidders to prepare and submit bids or proposals.

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- (f) IFBs and RFPs shall be publicized in a sufficient manner to insure open and adequate competition. The manner shall include public advertising.

In addition, the following methods are suggested to insure adequate competition:

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- (1) Copies of the IFB and RFP should be displayed by the county in an appropriate place, accessible to the public.
- (2) A synopsis should be published in a local newspaper of general circulation in sufficient time for potential vendors to receive and respond to the bidding document.
- (3) Either the full IFB or RFP or a notice that bids or proposals are being sought should be delivered to a sufficient number of prospective bidders to insure adequate competition. To facilitate this process, counties should establish and maintain mailing lists of potential bidders, including on the list any potential bidder who requests to be added.

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- (g) If after issuance of the IFB or RFP, but before the time set for opening, it becomes necessary to make changes in quantities, specification, opening dates, etc., or to correct a defective or ambiguous IFB or RFP, such change shall be accomplished by issuance of an amendment to the IFB or RFP. The amendment shall be sent to each vendor to whom the IFB or RFP has been furnished. The amendment shall be publicly displayed as required in Section 23-610(f)(1) above.

- (1) Each amendment issued to an IFB or RFP shall:
  - (A) Be serially numbered.
  - (B) Include the serial number of the IFB or RFP concerned.
  - (C) Clearly state the changes made in the IFB or RFP and the extension of time of the submittal date, if any. If no extension of the time set for submission is involved, the amendment shall so state.
  - (D) Include a warning to potential bidders concerning the effects of failure to comply with the amendment.

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- (2) Before issuing an amendment, the period of time remaining until the time set for submission, and the need for extending this period by postponing the time set for submission, must be considered. Where only a short time remains before the time set for submission, consideration shall be given to notifying bidders of an extension of time by telegram or telephone. Such notification shall be confirmed in the amendment.
  - (3) Any information given to a prospective bidder shall be furnished promptly to all other prospective bidders, as an amendment, if such information is necessary to bidders in submitting bids or if the lack of such information would be prejudicial to uninformed bidders. If any amendment is made to the IFB or RFP, no award shall be made unless the amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids or proposals.
- (h) IFBs or RFPs shall not be canceled unless cancellation is in the public interest, such as where there is no longer a requirement for the material or service or where amendments would be of such magnitude that a new bidding document is desirable. Where a bidding document is canceled, bids or proposals which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom bidding documents were issued.
- (i) The state's time periods, based on actual performance, for reviewing an IFB for In-Home Supportive Services during the two years proceeding the proposal of this section were as follows:
- (1) The median time was 42 days.
  - (2) The minimum time was 10 days.
  - (3) The maximum time was 113 days.